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November 24, 2003

VIA ECF

Honorable Benson Everett Legg, Chief Judge
United States District Court
District of Maryland
101 West Lombard Street
Baltimore, Maryland 21201

Re: Garcia, et al v. Kirstien, et al.
Civil #L-010103
Our file No. 8010-18

Dear Judge Legg:

This letter is written in response to the Court's Memorandum to Counsel dated November 17, 2003.

1. Plaintiffs provided documents in May/June 2003. Defendant Randy Habeck does not have any personal documents. Defendants Ronald Kirstein and Harvey Rothstein control a large number of documents which may include dispositive information. My understanding is that they are continuing to gather those documents.
2. Plaintiffs answered their interrogatories to Defendants Kirstein and Rothstein in April 2003. Defendant Randy Habeck provided his draft interrogatory responses in August 2003 and, it appears that the signed version has not been provided by oversight – that oversight will be correct. Plaintiffs have not yet responded to Defendant Habeck's interrogatories.
3. No witnesses have been deposed although notices for several depositions have been issued.
4. No experts have been identified or deposed. The need for additional experts will turn, in part, upon documents produced by Defendants Kirstein and Rothstein.

This is a case, from Defendant Habeck's perspective, where the plaintiffs are seeking damages against the defendants in their individual capacities for actions which they took, or

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which were taken, vis-à-vis a corporation known as Chef Garcia, Inc. Plaintiffs do not have standing to bring most, if not all, of the claims contained in their complaint. However, most of the documentation that would prove or disprove that theory rests with Defendants Kirstein and Rothstein. Accordingly, Defendant Habeck cannot evaluate the need for further discovery, or the need for experts until those documents have been produced. Defendant Habeck has joined in consenting to the requests for continuance because discovery cannot move forward until Defendants Kirstein and Rothstein have produced documents.

Very truly yours,

/s/ Patrick J. Kearney

Patrick J. Kearney
Attorneys for Defendant Randy Habeck

cc: Robert S. Selzer, Esquire
David F. Albright, Esquire (Via ECF)
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